IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1519 OF 2005

Shri Murlidhar Ramchandra Bagwe. ...Petitioner.
Vs.
The Collector of Sindhudurg & Ors. ...Respondents.
....
Mr. R. N. Sanghavi for the Petitioner.
Mr. A.P. Vanrshe, AGP for the Respondents.
.....

CORAM : F. I. REBELLO AND
DR.D.Y.CHANDRACHUD, JJ.

February 22, 2006.

P.C.

Rule. Heard forthwith.

The late father of the Petitioner had an arms licence as also a fire arm. On its expiry, the Petitioner herein, applied for an arms licence. That was rejected by the Collector against which the Petitioner herein, preferred an appeal before the Commissioner, Konkan Division, who is the Appellate Authority.

It is the grievance of the Petitioner that the Appellate Authority did not address himself to the correct question as to

whether the Petitioner was a person unfit to be granted a licence. On the contrary, the appeal was dismissed merely on the ground that there are large number of licences given in that area. It is pointed out that the protection is sought for protecting the agricultural land of the Petitioner herein and the fact that the others have been given licences would be of irrelevant consideration.

Having heard the Learned Counsel for the Petitioner, we found that the Appellate Authority did not address himself to the real issue which has been decided. In the first instance, the Petitioner's father had an arms licence. This by itself raises the presumption that the land which is now inherited by the Petitioner requires to be protected. In these circumstances, the application by the Petitioner for an arms licence could have only been rejected if the Petitioner otherwise was unfit person, considering the provisions of the Arms Act. No such finding was recorded. In the light of that, the order dated 9th December 2003 is set aside. The matter is remanded back to the Appellate Authority to rehear the petitioner afresh and pass appropriate order in accordance with law. At any rate, the appeal to be disposed of within three months hereof. Rule made absolute. No order as to costs.

(F. I. Rebello, J.)

(Dr.D. Y. Chandrachud, J.)